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To: Microsoft ATR
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Subject: Microsoft Settlement

As a consumer who uses not only Microsoft products but also Linux I hope that my perspective may prove useful regarding the fitness of the proposed settlement of the DOJ's case against Microsoft.

First, as I understand it, MS has been found *guilty* of several criminal acts--using their position for monopolistic purposes. As a consumer, I have been injured by this since my choices have been limited illegally. All companies which have wished to compete with MS have been injured as well.

Since MS is guilty, they should be punished, and the punishment should hurt. The gain which MS has obtained illegally should be allowed to competitors and consumers since they are the injured parties. What I have read of the settlement agreement has disappointed me. I can only consider that the DOJ has capitulated on their responsibilities, perhaps unknowingly. The punishment which faces Microsoft is not in proportion to the damage which they have done, it is mostly temporary, and much of it can be avoided by MS without much trouble.

I particularly object to section III(J)(2) from the perspective of the many useful not-for-profit businesses who are in the software production business. This section states that MS need not describe nor license API, Documentation, or Communications Protocols to any company unless it "... (c) meets reasonable, objective standards established by *Microsoft* for certifying the authenticity and viability of its *business*, ...". The proposed settlement only protects the competitive rights of "companies in commerce -- organizations in business for profit" and neglects any businesses which compete with MS but do not seek a profit. The definition of a "business" is left to Microsoft. This is like hiring wolves to guard sheep. I fear they will exclude any business they can from the benefits of the settlement, for example, Samba and Apache, to name just two. Section III(D) goes further in allowing MS to exclude these non-commercial concerns.

Part of Microsoft's defense was that times and business have changed since the time a century ago when the laws were written which MS was found guilty of breaking. I suggest that they are more right than they know. I suggest that Microsoft's unlawful practices have hurt all consumers and competitors. This latter group is best defined in the modern day as a company which offers a competitive product, and not merely one which hopes to make a profit from it. The existing settlement will further penalize this not-for-profit segment of Microsoft's competitors, and for that reason I believe it is faulty.

I fear that if the settlement is adopted as written, before too long I as a consumer will be faced with fewer options in the marketplace. I will only be able to buy inadequate software from a company which has proven itself unwilling to compete through production of higher quality products, but prefers to win market share by using illegal practices to slaughter the competition.

I feel proud to be from a state which has found fault with the settlement as proposed. I am very disappointed that the DOJ has chosen to promote a settlement agreement which would allow Microsoft to continue so easily its anti-competitive practices against one segment of the industry from which it obviously feels some pressure. It is not too late to rectify this omission.

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